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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,372	06/25/2007	Dan Lundgren	NOBELB.303NP	8124
20995 7590 10/29/2010 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER				
LEWIS, RALPH A				
ART UNIT		PAPER NUMBER		
3732				
NOTIFICATION DATE		DELIVERY MODE		
10/29/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/591,372

Applicant(s)

LUNDGREN, DAN

Examiner

Ralph A. Lewis

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 17, 20-27, 31, 34-39, 41, 43-49, 51, 52, 54, 55, 57-63, 65-69, 71-73, 75-80, 82 and 84-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO 646)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/12/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1-4,6,17,20-27,31,34-39,41,43-49,51,52,54,55,57-63,65-69,71-73,75-80,82 and 84-90.

Rejections based on Prior Art

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 17, 20, 23-26, 31, 34, 37-39, 41, 45-49, 51, 52, 54, 55, 59-63, 65-68, 71-73, 75, 76, 79, 80, 82 and 86-90 are rejected under 35 U.S.C. 102(e) as being anticipated by Cantor (US 2005/0164146).

Claims 1-4, 17, 20, 23-26, 31, 34, 37-39, 41, 45-49, 51, 52, 54, 55, 59-63, 65-68, 71-73, 75, 76, 79, 80, 82 and 86-90 are rejected under 35 U.S.C. 102(e) as being anticipated by Cantor (US 2007/0292820).

Cantor discloses a dental implant 100 having a coronal end 104, an apical end forming annular surface 120 threaded external surface 112, first grooved inner surface 140 and second inner surface 130. In regard to claim 2, note stop mark 102. In regard to claim 7, the threads form a rough surface. In regard to claims 10 and 11, note Figures 13 and 14.

In response to the present rejection based on Cantor 2005/0164146 applicant has filed a declaration on 1/29/2010 under 37 CFR 1.131 to establish priority to the claimed invention prior to the priority date of Cantor '146. The 131 declaration is ineffective with respect Cantor reference because the reference is a U.S. patent or U.S. patent application publication of a pending or patented application that claims the rejected invention. An affidavit or declaration is inappropriate under 37 CFR 1.131(a) when the reference is claiming the same patentable invention, see MPEP § 2306. If the reference and this application are not commonly owned, the reference can only be overcome by establishing priority of invention through interference proceedings. See MPEP Chapter 2300 for information on initiating interference proceedings. If the reference and this application are commonly owned, the reference may be disqualified as prior art by an affidavit or declaration under 37 CFR 1.130. See MPEP § 718.

In response to the present rejection applicant points to MPEP 2301.01 and argues that the 131 declaration should be found effective in overcoming the rejection based on Cantor even if the published application contains claims directed to the same invention because the claims in the published application are not in condition for allowance. The examiner notes that a notice of allowability has been issued in 11/035,266 (2005/0164146) as is apparent from applicant's IDS of 8/12/2010.

In response to the previous finding that an earlier 131 declaration was ineffective in overcoming the '146 Cantor invention applicant has in the past argued that the claims of the present invention and that of the '146 invention are not directed to the "same patentable invention" because the claims of '146 require that the internal thread and the

external thread have the same pitch. It is noted, however, that claim 31 in the present application, for example requires threading on both the internal and the external surfaces; merely specifying that this threading is of the same pitch so that the internal and external surfaces cooperate with one another, rather than resist one another during insertion of the implant would have been obvious to one of ordinary skill in the art practicing the present invention of claim 31. Applicant's distinction is not reasonably a patentable distinction, but rather an obvious variation. Moreover, it is noted that the Cantor continuing published application 2007/0292820 based on the same priority documents requires no such distinction.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 21, 27, 35, 69 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cantor (US 2005/0164146) or Cantor (US 2007/0292820) in view of Zuest (US 5,591,029).

Zuest for a dental implant similar to that of Cantor teaches the use of multiple threading for allowing quick and solid engagement with the bone (column 15, lines 26-31) and a trephine drill 58 (Figure 7) for preparing the implant site. To have provided the Cantor implant with double threading to allow for quick solid engagement with the

bone and a trephine drill to prepare the implantation site in view of the teaching by Zuest would have been obvious to one of ordinary skill in the art.

Claims 20, 34, 75 and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cantor (US 2005/0164146) or Cantor (US 2007/0292820) in view of Hansson et al (US 5,816,813).

To the extent that the threading on the Cantor implant does not meet the "micro threads" limitations of claims 20, 34, 75 and 76, Hansson et al teaches that microthreads provide for rapid bone growth (column 3, lines 36-46). To have made the Cantor threading of such a size in order to promote rapid bone growth would have been obvious to one of ordinary skill in the art.

Claims 22, 36, 43, 44, 53, 57, 58, 78, 84 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cantor (US 2005/0164146) or Cantor (US 2007/0292820).

The orientation of the inner grooves, the use of the Cantor device with a prior art dental bridge and the construction of the device within the particular dimensions claimed would have been obvious to one of ordinary skill in the art desiring to practice the Cantor device as a matter of routine.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Cris Rodriguez, can be reached at (571) 272-4964.

R.Lewis
October 25, 2010

/Ralph A. Lewis/
Primary Examiner, Art Unit 3732